



Comptroller General of the United States

Washington, D.C. 20545

Decision

Matter of:

Custom Production Mfg., Inc. -- Claim for Costs

File:

B~235431.7

Date:

May 9, 1995

Samuel E. Stern for the protester.

Robert E. Sebold, Esq., Defense Logistics Agency, for the

agendy.

Gacqueline Maeder, Esq., John Van Schaik, Esq., and Paul Lieberman, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Claim for bid preparation and bid protest costs is denied where protester failed to adequately document those costs.

DECISION

Custom Production Mfg., Inc. (CPM) requests that we determine the amount that it is entitled to recover from the Defense Logistics Agency (DLA) for its proposal preparation and protest costs in <u>Survival Prods., Inc.</u>, B-235431.3, Nov. 16, 1989, 89-2 CPD ¶ 464; <u>Van Ben Indus., Inc.</u>; et al. --Recon., B-235431.4; et al., Jan. 29, 1990, 90-1 CPD ¶ 118. In those decisions, we sustained a protest by Survival Products, Inc. against the award of a contract to Van Ben Industries, Inc.

We deny the claim.

In our initial decision sustaining Survival Products's protest, we found that Survival Products was entitled to recover the costs of filing and pursuing its protest, including reasonable attorneys' fees. In the decision on the reconsideration request, we found that Survival Products also was entitled to recover its proposal preparation costs.

In a letter dated August 10, 1990, Survival Products advised DLA that it was engaging a firm to assist in preparing its claim and that it expected to submit a claim "in the near future." On April 22, 1994, Survival Products submitted its

¹CPM states that it is the successor-in-interest to Survival Products.

claim to DLA. DLA dismissed the claim on June 22, stating that, because Survival Products had submitted its claim 4-1/2 years after award of costs, the claim had not been filed within a reasonable time and therefore the company had forfeited its rights to such costs. After DLA dismissed Survival Products's request for reconsideration, CPM filed this claim with our Office.

CPM has requested reimbursement in the amount of \$23,905.18, including the following expenses:

attorneys' fees	\$13,325,18	
consulting fees	3,080.00	
travel to D.C. for protest hearing	1,500.00	
ealary of vice president for proposal preparation (4 weeks)	4,000.00	
salary for administrative assistant for proposal (4 weeks)	1,500.00	
consultant fee, claim preparation	500.00	

CFM submitted only this brief list of costs without explanation or documentation of the nature of the costs to our Office. However, in response to the claim, DLA provided our Office with three supporting documents that Survival Products had submitted to the agency.

With respect to CPM's claim for attorneys' fees, the protester submitted a letter dated April 27, 1994, from the law firm which represented Survival Products in the bid protest; that letter states that "[a] total of \$13,325.18 in professional fees and ancillary charges was billed to [the protester]" for work performed on the protest from July 1989 through February 1990.

A second letter, dated November 21, 1989, includes the following summary of services to support the "consulting fees for [the] trioxane project:"2

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The fuel bars that were purchased under the solicitation are made by compressing several ingredients, one of which is trioxane.

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TIME	CHARGE	
15 hours	\$1,500	
17 hours	1,200	
10 hours	250	
	55	
	75	
	\$3,050	
	15 hours 17 hours	15 hours \$1,500 17 hours 1,200 10 hours 250 55 75

The protester also submitted an invoice, dated April 22, 1994, for \$500 for professional services for "[c]laim preparation support."

DLA argues that CPM's claim should be disallowed since adequate documentation has not been provided.

A protester seeking to recover the costs of pursuing its protest must submit sufficient evidence to support its monetary claim. Data Based Decisions, Inc .-- Claim for Costs, 69 Comp. Gen. 122 (1989), 89-2 CPD ¶ 538; Introl Corp., 65 Comp. Gen. 429 (1986), 86-1 CPD ¶ 279. The a The amount claimed may be recovered to the extent that the claim is adequately documented and is shown to be reasonable. Patio Pools of Sierra Vista, Inc .-- Claim for Costs, 68 Comp. Gen. 383 (1989), 89-1 CPD ¶ 374; Meridian Corp.--Claim for Bid Protest Costs, B-228468.3, Aug. 22, 1989, 89-2 CPD ¶ 165. At a minimum, claims for reimbursement of expenses must identify the amounts claimed for each individual expense, the purpose for which that expense was incurred and how the expense relates to the protest. <u>Diverco, Inc.--</u> Claim for Costs, B-240639.5, May 21, 1992, 92-1 CPD ¶ 460; TMC, Inc. -- Claim for Costs, 69 Comp. Gen. 199 (1990), 90-1 CPD ¶ 111.

Here, CPM's claim, including its submission to this Office and to DLA, consisted of a list of lump-sum figures, given above, representing the costs for which CPM seeks reimbursement. CPM's failure to submit detailed documentation for all figures effectively prevents DLA and this Office from reviewing the reasonableness of the amount it ultimately would have to pay. The three documents CPM submitted concerning attorney and consulting fees are wholly inadequate to support those claimed costs.

For example, where, as here, attorneys' fees are sought to be recovered, evidence from the attorneys involved must be submitted, Malco Plastics, B-219886.3, Aug. 18, 1986, 86-2 CPD ¶ 193, including, for instance, copies of bills from the attorneys listing the dates the services were performed, the attorneys involved, and the hours billed to the protester.

The protester's attorneys also should certify that the hours billed reflect the actual hours worked and that the fees charged reflect the attorneys' customary hourly rate. See Meridian Corp.—Claim for Bid Protest Costs, supra. As noted above, the letter from the protester's law firm does not provide an itemized accounting of these costs, i.e., the letter does not list the attorneys or employees involved, the dates of performance, the hours worked, the hourly rates, the services performed, or out—of—pocket expenses (postage, copying, telephone, and research expenses). Under these circumstances, we find this evidence insufficient to support CPM's claim for attorneys' fees.

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Similarly, the other documents are inadequate to support payment of the claimed consulting fees. As to the \$3,080 fee for the "trioxane project," the protester has not identified the consultant who performed the work, the dates of performance, the purpose for which the expense was incurred or how the expense related to the protest or the firm's proposal. The \$500 invoice for claim preparation also does not indicate in any way that these professional services were related to Survival Products's protest or identify the consultant who performed the work, the hours worked or dates of performance, the purpose for which the expense was incurred and how the expense related to the protest. Since these costs are insufficiently documented, they are not allowable.

The remaining costs claimed by CPM, for personnel and travel expenses, also are totally unsupported. CPM has not provided any calculations concerning these costs or supported these costs with travel vouchers or bills or affidavits from the employees involved concerning their salary rates and hours spent on proposal preparation or on the protest. Because these claimed costs are totally unsupported, they are not allowable. Princeton Gamma-Tech, Inc.--Claim for Costs, 68 Comp. Gen. 400 (1989), 89-1 CPD 401.

The claim is denied.

Robert P. Murphy General Counsel

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